

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 02 FEB 2005

WIPO

PCT

|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br>666189C   | <b>FOR FURTHER ACTION</b>   | See Form PCT/IPEA/416                                       |
| International application No.<br><b>PCT/AU2004/000153</b>  | International filing date ( <i>day/month/year</i> )<br>10 February 2004 | Priority date ( <i>day/month/year</i> )<br>10 February 2003 |
| International Patent Classification (IPC) or national classification and IPC<br><b>Int. Cl. <sup>7</sup> C12N 001/10</b> |   |   |
| Applicant<br><b>BORODY, Thomas Julius</b>  |   |   |

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☐ (*sent to the applicant and to the International Bureau*) a total of      sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s))      , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
 

|                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input type="checkbox"/>            | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application   |

|   |  |
|---|--|
| Date of submission of the demand<br>10 September 2004   | Date of completion of the report<br>12 January 2005                              |
| Name and mailing address of the IPEA/AU<br>AUSTRALIAN PATENT OFFICE<br>PO BOX 200, WODEN ACT 2606, AUSTRALIA<br>E-mail address: pct@ipaaustralia.gov.au<br>Facsimile No. (02) 6285 3929 | Authorized Officer<br><br><b>SOPHINA CALANNI</b><br>Telephone No. (02) 6283 2038 |

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000153

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1 (b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ the international application as originally filed/furnished

☐ the description:

pages as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ the claims:

pages as originally filed/furnished

pages\* as amended (together with any statement) under Article 19

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ the drawings:

pages as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

*If item 4 applies, some or all of those sheets may be marked "superseded."*

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000153

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

|                               |             |     |
|-------------------------------|-------------|-----|
| Novelty (N)                   | Claims 1-30 | YES |
|                               | Claims NONE | NO  |
| Inventive step (IS)           | Claims 1-30 | YES |
|                               | Claims NONE | NO  |
| Industrial applicability (IA) | Claims 1-30 | YES |
|                               | Claims NONE | NO  |

## 2. Citations and explanations (Rule 70.7)

The applicant's invention resides in the provision of a bi-phasic culture medium comprising a solid phase slope of egg or agar, and a liquid phase containing serum and a peptone.

### Novelty (N)

All the documents cited in the ISR are category A only. Claims 1-30 meet the criteria set forth in PCT Article 33(2) for novelty. The prior art published before the priority date does not disclose a bi-phasic culture medium comprising a solid phase slope of egg or agar, and a liquid phase containing serum and a peptone. Therefore the subject matter of these claims is new and meets the requirements of Article 33(2) PCT with regard to the requirement for novelty.

### Inventive step (IS)

Claims 1-30 meet the criteria set out in PCT Article 33(3) with regard to the requirement of inventive step because the prior art does not obviously suggest to a person skilled in the art a bi-phasic culture medium comprising a solid phase slope of egg or agar, and a liquid phase containing serum and a peptone. Therefore the subject matter of these claims is not obvious and meets the requirements of Article 33(3) PCT with regard to the requirements for inventive step.

### Industrial Applicability (IA)

Claims 1-30 meet the requirements of the PCT with regard to industrial applicability.